

FIRST DIVISION

[G.R. No. 185849, April 07, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JONJIE ESOY Y HUNGOY, ROLANDO CIANO Y SOLEDAD AND ROGER BOLALACAO Y DADIVAS, ACCUSED-APPELLANTS.

D E C I S I O N

VILLARAMA, JR., J.:

The present appeal assails the Decision ^[1] dated April 30, 2008 of the Court of Appeals in CA-G.R. HC-CR No. 02701 affirming the February 27, 2007 Decision ^[2] of the Regional Trial Court (RTC) of Manila, Branch 54, convicting appellants of the crime of robbery with homicide.

In an Information ^[3] dated February 2, 2001, appellants Jonjie Esoy y Hungoy (Esoy), Rolando Ciano y Soledad (Ciano), and Roger Bolalacao y Dadivas (Bolalacao) were charged as follows:

That on or about January 18, 2001, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, with intent to gain and by means of force, violence against and intimidation, that is, by boarding a passenger jeepney pretending to be paying passengers, suddenly pulling out their deadly bladed weapons, stabbing on the chest one LORENZO CORO Y BARREDO, a paying passenger, and grabbing his cellphone worth P7,000.00, Philippine currency, did then and there willfully, unlawfully and feloniously take, rob and carry away the said cellphone of Lorenzo B. Coro against his will, to the damage and prejudice of the latter in the same sum as aforesaid; that by reason and on the occasion of the said robbery the said Lorenzo B. Coro, sustained fatal stab wounds which were the direct cause of his death immediately thereafter.

CONTRARY TO LAW.

At the arraignment, appellants pleaded not guilty. ^[4] Trial thereafter ensued. The prosecution presented three (3) witnesses: Andrea Pabalan, SPO1 Raul Olavario and Medico-Legal Officer Dr. Filemon C. Porciuncula. Taken altogether, the evidence for the prosecution established the following facts:

On January 18, 2001, around 8:00 p.m., the victim Lorenzo Coro and Andrea Pabalan (Pabalan), rode a jeepney bound for Buendia Avenue at Taft Avenue corner T.M. Kalaw Street in Manila. Upon reaching Taft Avenue corner Pedro Gil Street, Ermita, Manila, appellants boarded the jeepney. Bolalacao sat beside the victim

while Esoy and Ciano sat on the opposite side. Pabalan noticed that Esoy and Ciano were staring at all the passengers. Feeling apprehensive, she moved beside the victim and whispered to him that she did not like the way the two (2) were staring at them. Esoy and Ciano also seemed to be high on drugs, so she told the victim not to look at them. When she again looked at Esoy and Ciano, the two (2) suddenly drew out their *balisongs* and swung the same at them. In the ensuing commotion, the other passengers including appellants alighted from the jeepney. When Pabalan told the victim that they should go down, she saw the victim's bloodied chest. She then shouted for help and that they be taken to the hospital. The jeepney driver, however, told them to alight from the vehicle. Fearing that the victim might run out of blood, she told him that they should go down. The victim then told her that his cellular phone was snatched and asked her where appellants fled. Pabalan just insisted that they alight from the vehicle and not to worry about his cellular phone. Upon alighting from the jeepney, the victim fell down after a few steps. But with the help of two (2) motorcyclists, they were able to hail an FX taxi and the victim was immediately brought to the nearby Philippine General Hospital (PGH) where he was operated on. Unfortunately, however, the victim died at 11:00 p.m. that same night.

On January 19, 2001, around 2:00 a.m., SPO1 Raul Olavario, Police Investigator of the Homicide Division of the Western Police District (WPD), Manila, received information from retired Police Inspector Cesar Diokno about a stabbing victim who expired at the PGH. SPO1 Olavario then proceeded at the PGH to investigate. The hospital guard told him about the robbery with homicide that occurred on January 18, 2001 inside a passenger jeepney along Taft Avenue. At that time, Pabalan had already left the hospital but she went to SPO1 Olavario's office later in the morning the same day to give her sworn statement and the description of the assailants.

Several days after, or on January 31, 2001, Pabalan informed SPO1 Olavario that she saw the three (3) appellants inside the WPD jail and positively identified them as the assailants.

PNP Crime Laboratory Police Senior Inspector and Medico-Legal Officer Dr. Filemon C. Porciuncula testified on the autopsy he performed on the cadaver of the victim and the Medico-Legal Report No. M-0208-01 [5] he submitted. The autopsy revealed that the victim sustained a stab wound and multiple abrasions on the right knee.

Appellants, for their part, denied any involvement in the robbery-homicide incident. They claimed that they were at their workplace in Bacood, Sta. Mesa, Manila, when the incident happened. Both Ciano and Esoy testified that they started working at 8:00 a.m. until 5:00 p.m. of January 18, 2001. They rested for a while and resumed working with intermittent rests until five (5) o'clock the following morning of January 19, 2001. As to Bolalacao, he claimed to be working from 7:00 a.m. of January 18, 2001 up to 5:00 a.m. the following morning of January 19, 2001.

Lauro Dela Cruz, supervisor of appellants, was called to testify to corroborate appellants' defense. Though Dela Cruz recognized the faces of the appellants as among those who have worked under him, he could not categorically state that they were at the workplace at the times and dates they specified because he was not there all the time and he does not keep time records.

On February 27, 2007, the trial court rendered a Decision finding appellants guilty of

the crime of robbery with homicide, as follows:

WHEREFORE, finding accused Jonjie Esoy y Hungoy, Rolando Ciano y Soledad, and Roger Bolalacao y Dadivas all GUILTY BEYOND REASONABLE DOUBT of the complex crime of Robbery with Homicide defined and penalized under Articles 293 and 294 (1) of the Revised Penal Code, as recently amended by Republic Act No. 9346, the aforementioned accused are each sentenced to suffer the penalty of *Reclusion Perpetua* and shall indemnify the heirs of Lorenzo Coro in the amount of One Hundred Fifty Thousand (P150,000.00) Pesos as actual and compensatory damages and the further sum of Seventy-Five Thousand (P75,000.00) Pesos as moral damages.

SO ORDERED. [6]

On April 30, 2008, the Court of Appeals affirmed with modification the RTC decision as follows:

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Regional Trial Court, Branch 54, Manila is AFFIRMED. The trial court's award of civil liability is hereby MODIFIED. Appellants JONJIE ESOY y HUNGOY, ROLANDO CIANO y SOLEDAD and ROGER BOLALACAO y DADIVAS are **each** ordered to pay the heirs of Lorenzo Coro the following sums: (a) One Hundred Fifty Thousand (P150,000.00) as actual damages; (b) Fifty Thousand Pesos (P50,000.00) *ex delicto*; and (c) Fifty Thousand Pesos (P50,000.00) as moral damages.

SO ORDERED. [7]

Hence, this appeal.

On February 18, 2009, the Court directed the parties to file their respective supplemental briefs if they desire. [8] Both appellants [9] and the Solicitor General, [10] however, manifested that they are dispensing with the filing of a supplemental brief as their positions have already been assiduously discussed before the appellate court. Thus, the errors raised in appellants' Brief [11] dated July 24, 2007 are now deemed adopted in this present appeal. Appellants raise the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS ALTHOUGH THEIR IDENTITIES AS THE PERPETRATORS WERE NOT ESTABLISHED BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN GIVING SCANT CONSIDERATION

TO THE EVIDENCE PRESENTED BY THE ACCUSED-APPELLANTS WHICH IS MORE CREDIBLE THAN THAT OF THE PROSECUTION'S.

III.

ASSUMING THAT THE APPELLANTS ARE GUILTY, THE TRIAL COURT GRAVELY ERRED IN CONVICTING THEM OF ROBBERY WITH HOMICIDE NOTWITHSTANDING THE FACT THAT ROBBERY WAS NOT PROVEN BEYOND REASONABLE DOUBT.

IV.

THE TRIAL COURT SERIOUSLY ERRED IN HOLDING THAT CONSPIRACY EXISTED BETWEEN AND AMONG THE ALLEGED PERPETRATORS.

V.

THE TRIAL COURT GRAVELY ERRED IN AWARDING ACTUAL AND MORAL DAMAGES NOTWITHSTANDING THE FACT THAT THERE WAS NO BASIS FOR ITS GRANT. [12]

Essentially, the issue for our resolution is whether the guilt of the appellants for the crime of robbery with homicide has been proven beyond reasonable doubt.

Appellants contend that their identities as perpetrators of the crime were not established beyond reasonable doubt. They argue that even if at the time of the incident there were many light posts along Taft Avenue, the same cannot produce enough illumination inside the vehicle to allow Pabalan to see clearly the faces of the assailants. The small bulb inside the jeepney simply cannot be considered as sufficient source of light to enable Pabalan to identify and remember the facial features of a total stranger. Further, several days had passed before Pabalan made the identification during the police line-up and thus, it was impossible for her to have easily remembered the faces of the assailants whom she supposedly saw on only one (1) occasion.

We are not persuaded.

As narrated by Pabalan, two (2) of the appellants - Esoy and Ciano - sat in front of them while the other, Bolalacao, sat beside the victim. Considering the limited space inside a passenger jeepney, the faces of appellants can be easily seen by Pabalan in close range. Moreover, it is of no moment that the inside of a jeepney was only illuminated by a small bulb. The said kind of light has already been held by the Court as enough lighting for identification purposes. [13] Considering also the busy thoroughfare of Taft Avenue, Ermita, light emanating from the headlights of passing vehicles can contribute sufficient illumination [14] to enable Pabalan to identify appellants. We have held that when conditions of visibility are favorable, and the witness does not appear to be biased, as in the instant case, her assertion as to the identity of the malefactors should normally be accepted. [15]

Furthermore, the reliability of Pabalan's memory should not be doubted by the mere

fact that identification of the appellants at the police line-up happened several days after the incident. It is known that the most natural reaction of a witness to a crime is to strive to look at the appearance of the perpetrator and to observe the manner in which the offense is perpetrated. [16] Most often the face of the assailant and body movements thereof, create a lasting impression which cannot be easily erased from a witness's memory. [17] Experience dictates that precisely because of the unusual acts of violence committed right before their eyes, eyewitnesses can remember with a high degree of reliability the identity of criminals at any given time. [18]

As to appellants' defense of alibi, it cannot prevail over the positive identification of appellants as the perpetrators of the crime, especially in the face of categorical statements coming from a credible witness who has no ill motives in testifying. [19] Pabalan's testimony was straightforward and though she became emotional during the middle part of her testimony, she remained consistent all through out even on cross-examination. Appellants have also not shown any reason for Pabalan to testify falsely against them.

To establish alibi, an accused must prove (a) that he was present at another place at the time the crime was perpetrated, and (b) that it was physically impossible for him to be at the scene of the crime. Physical impossibility "refers to the distance between the place where the accused was when the crime transpired and the place where it was committed, as well as the facility of access between the two places." [20] Here, appellants failed to satisfy the said requisites, especially the second. The crime happened along Taft Avenue, Ermita, while appellants claimed to be in their workplace in Bacood, Sta. Mesa, at that time. The distance between Ermita and Sta. Mesa cannot be said as too far that it was physically impossible for appellants not to be at Ermita, the scene of the crime. Even the testimony of their immediate supervisor did not help in establishing their defense since Dela Cruz could not categorically state that appellants were at the workplace at the time and date the crime was committed.

Appellants next argue that (1) no evidence was presented by the prosecution establishing that personal property was taken from the victim except for the hearsay allegation of Pabalan; and (2) no witness testified that the victim or Pabalan actually saw one (1) of the appellants take something from the victim. The contentions, however, are likewise without merit.

The pertinent portion of Pabalan's testimony is hereunder quoted verbatim:

Witness:

q What about Lorenzo Coro, do you know before this - just at the moment you had this jeepney ride, do you know if he had a cellular phone?

a Yes, sir, it was clipped on the right side of his waist.

Court:

Clipped at the?